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REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

Report of the High Commissioner submitted pursuant to Commission resolution 1999/54

CONTENTS

		Paragraphs	Page
Introduction		1 - 2	3
I.	THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE	3 - 10	3
II.	PREVENTION OF RACISM AND RACIAL DISCRIMINATION	11 - 21	5
III.	THE RIGHT TO DEVELOPMENT AND THE PREVENTION OF HUMAN RIGHTS VIOLATIONS	22 - 35	7
IV.	PREVENTION OF GROSS VIOLATIONS OF CIVIL AND POLITICAL RIGHTS	36 - 45	10

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CONTENTS (continued)

		Paragraphs	Page
V.	FUNDAMENTAL STANDARDS OF HUMANITY	46 - 51	12
VI.	PREVENTION OF SLAVERY	52 - 70	13
VII.	PREVENTION OF TRAFFICKING IN WOMEN AND CHILDREN	71 - 79	16
VIII.	PREVENTION OF VIOLATIONS THROUGH HUMAN RIGHTS EDUCATION	80 - 86	19
IX.	COMBATING IMPUNITY AS A PREVENTIVE APPROACH	87 - 91	21
X.	CONCLUDING OBSERVATIONS	92 - 95	22

Introduction

1. In resolution 48/141 creating the post of United Nations High Commissioner for Human Rights, the General Assembly requested the High Commissioner to report annually on her activities, in accordance with her mandate, to the Commission on Human Rights and, through the Economic and Social Council, to the General Assembly. Pursuant to this request, the High Commissioner has the honour to bring to the attention of the Commission the following reports submitted since her last report to the Commission on Human Rights (E/CN.4/1999/9): report to the Economic and Social Council focusing on the implementation of economic, social and cultural rights and the right to development (E/1999/96), report to the General Assembly at its fifty-fourth session (A/54/36).

2. In its resolution 1999/54 of 27 April 1999, the Commission on Human Rights supported fully the Secretary-General and the High Commissioner in their efforts to strengthen the human rights activities of the United Nations and encouraged the High Commissioner, within her mandate, to continue to play an active role in promoting and protecting all human rights, including in the prevention of human rights violations throughout the world. In view of the stress laid by the Commission on the topic, and mindful of the Secretary-General's call for the new century to be the century of prevention, the present report will focus on the prevention of human rights violations throughout the world. In this context, the High Commissioner recalls the request of the Commission, in its resolution 1999/18, to the High Commissioner and the Secretary-General to take concerted action with the assistance of the international community to develop early-warning procedures in the field of human rights with a view to identifying situations that could lead to conflict or humanitarian tragedy, and requested them to report to the Commission at its fifty-sixth session on their efforts.

I. THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

3. Genocide represents the ultimate negation of the human rights of the individual as well as those of the group of which he or she forms part. It constitutes the most serious denial of the dignity of an entire group and in its starkest form - complete annihilation. Despite the immense suffering of the victims of the Holocaust, and the huge human costs of the Second World War in general, the world has failed to address the lessons of history. In the half century since the Convention on the Prevention and Punishment of the Crime of Genocide was adopted, the international community has not intervened effectively to prevent genocide, for example, in Burundi, Rwanda and the former Yugoslavia, or to bring a halt to the commission of crimes against humanity in Cambodia. The failure of the international community to prevent such massive suffering in the half century since the trials in Tokyo and Nuremberg makes tragically clear the urgency of developing comprehensive measures for combating impunity as well as strong and effective early-warning and conflict-prevention measures to prevent genocide.

4. Fortunately, the international community has made substantial progress in a number of areas directly related to the goal of preventing genocide and other particularly egregious violations of international human rights and humanitarian law in the future. As regards the United Nations human rights programme in particular, the Commission and Sub-Commission have sought to develop concrete ways to eliminate impunity for genocide and other serious violations of international human rights and humanitarian law. Indeed, the international

community has come to the realization that efforts to combat impunity must be integrated within an effective early-warning and conflict-prevention system because serious violations, where left unprosecuted and unpunished, can provide conflict to escalate into open hostilities, and even war. This realization is reflected in the numerous references in Commission and Sub-Commission resolutions to the international criminal tribunals for the former Yugoslavia and Rwanda and to the Rome Statute of the International Criminal Court.

5. In resolution 1999/67, the Commission, recalling that genocide is a crime under international law, welcoming General Assembly resolution 53/43 on the fiftieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide and recalling its own resolution 1998/10 on the subject, stressing the significance of the adoption on 17 July 1998 of the Rome Statute of the International Criminal Court and convinced that the United Nations High Commissioner for Human Rights and the Commission can contribute to preventing situations in which the crime of genocide could be committed, stressed the importance of and the need to implement the Convention.

6. The Genocide Convention reiterates the General Assembly's characterization of genocide as "a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world" and encapsulates its essential elements as a crime by defining it as any act committed with the specific "intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such". The Convention prohibits not only killing, but also the causing of serious bodily or mental harm, deliberately inflicting on the group of conditions of life calculated to bring about its physical destruction, imposing measures intended to prevent births within the group, and forcibly transferring children of the group to another group. It covers the related crimes of conspiracy, direct and public incitement and attempt to commit genocide and complicity in genocide and applies at all times - during armed conflict, peace and any situation in between. Significantly, the Genocide Convention makes individuals liable to prosecution "whether they are constitutionally responsible rulers, public officials or private individuals" and it envisages the establishment of international mechanisms to enforce individual criminal responsibility for major human rights violations. Article VI provides that persons charged with genocide shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by an international criminal tribunal as may be vested with such jurisdiction.

7. The adoption of the Genocide Convention itself was meant to have a preventive effect. The very title of the Convention emphasizes prevention and, in article VIII, the Convention provides that:

> "Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III."

8. The establishment of the International Criminal Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda sent an important message concerning the prevention of gross violations of human rights and of genocide: whoever commits such violations must be prepared to face the consequences before international criminal tribunals. The adoption of the

Rome Statute of the International Criminal Court constitutes another major milestone on the path leading to the establishment of a standing body to prosecute and punish genocide, war crimes and crimes against humanity.

9. The establishment of a body of human rights and humanitarian observers who can be deployed on an urgent basis in situations where population groups may be at risk could be a valuable addition to the practical options at the disposal of the international community in preventing genocide.

10. The establishment of a Rapid Reaction Force that could be deployed in situations of urgent need with a view to averting conflict or helping to protect groups in danger would also be a valuable addition to efforts for the prevention of genocide. Such a rapid reaction capacity would be a tangible signal of the international community's resolve to prevent genocide.

II. PREVENTION OF RACISM AND RACIAL DISCRIMINATION

11. The United Nations has a global mandate to ensure human rights for all without distinction as to race, ethnicity or national origin. In its endeavour to carry out this mandate, it is increasingly moving away from a stance perceived to be mostly reactive to situations of human rights violations to a more pro-active and preventive approach. This requires improving the capacity of human rights mechanisms to detect situations of potential violations or conflict, in order to defuse them or prevent their escalation.

12. Since its inception, the United Nations has addressed racism and racial discrimination in all its forms. The proclamation of three decades to combat racism and racial discrimination has contributed to raising awareness and mobilizing the international community against this evil. Multilateral treaties have been adopted and Governments have been urged to incorporate their provisions into their national legislation to combat racism and racial discrimination in all sectors, including political, economic, social and penal measures. Studies have been conducted to demystify the pseudoscientific discourse on the "inequality" of different members of the human race.

13. With the recent resurgence of old ethnic, racial and nationalist antagonisms in various forms of intolerance, xenophobia and, in the most extreme cases, ethnic conflict, ethnic cleansing and genocide, United Nations human rights mechanisms are compelled to reflect on situations where the occurrence of racist acts and racial discrimination could degenerate into open conflict, and recommend timely specific and adequate preventive measures. Such measures may include support mechanisms, early-warning systems, confidence-building measures, and structural and institutional support mechanisms to prevent the deterioration of potential racial conflicts.

14. The post-cold-war era has been characterized by contradictory trends. On the one hand, regional and continental associations are evolving new and efficient ways of deepening cooperation and reducing the centrifugal forces of sovereignty and nationalism. National boundaries are eroded by new developments in communication technology and the increasing willingness of States to submit aspects of their sovereignty to common political and economic associations. On the other hand, violent assertions of sovereignty and nationalism are on the

rise, and the integrity of nation States is increasingly challenged by forces of ethnic, cultural or linguistic separation. New phenomena of discrimination present serious challenges to social peace in many countries. As a consequence, many countries are destabilized by internal conflicts.

15. Although ethnic conflicts may be considered autonomous and disparate, these conflicts pose a real threat to international security and generate many forms of human rights violations which must be addressed. Racism, ethnicity or xenophobia appears to be critical factors in the outbreak of many of these intra-States conflicts. Discriminatory practices and/or the manipulation of ethnic, racial or national differences by politicians constitute recurring issues in most situations of open conflicts in States.

16. The United Nations can meet the challenge resulting from the multiplication of conflicts of this nature by identifying criteria for initiating preventive action and by defining adequate responses. Through his report on the causes of conflict and the promotion of durable peace and sustainable development in Africa (A/52/871-S/1998/318), the Secretary-General has initiated a process of reflection on the dynamics of conflicts resulting from violent politicization of ethnicity with a view to developing panaceas. This approach may be broadened to embrace similar situations existing elsewhere, for instance in Europe where violent conflicts have led to the dissolution of some countries and in Asia where the stability of a number of countries is challenged.

17. Criteria for initiating preventive action to deter ethnic, racial or xenophobic conflicts may include: lack of an adequate legislative basis for defining and criminalizing all forms of racial discrimination, absence of legislation to protect minority rights, inadequate implementation of enforcement mechanisms, including the lack of recourse procedures, a pattern of escalating racial, ethnic or xenophobic hatred and violence, ethnic or racial propaganda or appeal to racial intolerance by persons, groups or organizations, significant flows of refugees or displaced persons resulting from a pattern of ethnic or racial discrimination.

18. Responses to situations of such conflicts designed to reduce tensions and violence based on ethnic, racial or xenophobic conflicts may include: preventive diplomacy, early-warning mechanisms, mediation, promotion of tolerance through human rights education, support to democratic institutions through better representation of all segments of the society, affirmative action, promotion of multiculturalism.

19. A strategy for the prevention of racism and racial discrimination requires, among others, the following courses of action: (a) the articulation of a vision that embraces all parts of the population; all parts of the population should feel that they have a stake in the future of the country; (b) the pursuit of human rights strategies of governance: acceptance and implementation of internationally recognized norms of human rights, including on equality and non-discrimination; (c) the continuous monitoring of the society to detect and address problems; (d) the presence of mediators who can intercede rapidly if needed; (e) the availability of recourse procedures to victims of racism and racial discrimination; (f) programmes of education in human rights and tolerance, especially for the young; (g) the pursuit of equitable development; (h) continuous sensitization and training of law enforcement officials,

(i) conscious efforts to sensitize mass media and Internet service providers to the dangers of racism and to combat the promotion of racist ideas via the Internet, (j) national, regional and international cooperation to prevent racism and racial discrimination.

20. Piece by piece, the building blocks are being assembled for prevention at the international level. A good example is provided by the Committee on the Elimination of Racial Discrimination (CERD). In March 1998, the Committee made formal statements under its early warning and urgent procedures mechanism on the situations in the Democratic Republic of the Congo, Papua New Guinea, Bosnia and Herzegovina and Rwanda. On the situation in Rwanda, for example, the Committee expressed alarm at reports that a new round of genocidal violence had commenced. It noted that the climate of impunity persisting in some areas and the lengthy detention of accused persons under deplorable conditions did not assist the process of ethnic reconciliation.

21. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance is expected to amplify the ideas enunciated above. It would present an opportunity to promote the concept of preventive action not only at the international level but also within the domestic jurisdiction of States. It is proposed that Member States explore ways and means of adapting this approach to their internal mechanisms for addressing manifestations of racism, racial discrimination and xenophobia.

III. THE RIGHT TO DEVELOPMENT AND THE PREVENTION OF HUMAN RIGHTS VIOLATIONS

22. One of the purposes of the United Nations is the achievement of "international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all ..." (Article 1, paragraph 3, of the Charter). In this spirit, human rights-based development cooperation can be used as an effective tool for the prevention of human rights violations in the long term.

23. The 1993 World Conference on Human Rights, the 1997 Agenda for Development, the programme for reform of the Organization of the Secretary-General and all the final documents of the global conferences held in the 1990s have underlined that:

(a) "Actors in the field of development cooperation should bear in mind the mutually reinforcing interrelationship between development, democracy and human rights" (Vienna Declaration and Programme of Action, Part II, para. 74);

(b) "Respect for all human rights and fundamental freedoms, democratic and effective institutions, combating corruption, transparent, representative and accountable governance, popular participation, an independent judiciary, the rule of law and civil peace are among the indispensable foundations for development" (Agenda for Development (General Assembly resolution 51/240, annex), para. 27);

(c) "Developments in the present decade have underscored that human rights are inherent to the promotion of peace, security, economic prosperity and social equity Governments increasingly recognize that respect for human rights, including the right of women, is a precondition for political stability and socio-economic progress" (programme for reform, (A/51/950), para 194)

24 The relationship between development and human rights is best articulated in article 1, paragraph 1, of the Declaration on the Right to Development, which states that

> "The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized "

25 The circular relationship between development and human rights very often leads to the question is the advancement of human rights a condition for development, or is development a condition for the full enjoyment by people of their human rights?

26 It might be argued that since sustainable development cannot be attained without respect for human rights, the promotion and protection of human rights must be a central element of development cooperation In turn, a culture of human rights and of favourable conditions for the enjoyment by people of their human rights through development cooperation is a tool for the prevention of future human rights violations

27 Arguably, to adopt a human rights approach to development-related issues, such as eradication of poverty, social development, macroeconomic policies (including structural adjustment policies, debt and debt "forgiveness" negotiations, international trade relations and regulations, codes of conduct for transnational corporations, international investment, transfer of technology, etc), good governance, democracy, environmental protection and post-conflict reconstruction, would by itself lead to the building and strengthening of an institutional and operational framework for the promotion and protection of human rights.

28 The 1986 Declaration on the Right to Development provides guidance for realizing development and human rights in a complementary and comprehensive manner, according to which international cooperation is a duty of the international community; in this framework, international cooperation should focus on the elimination of obstacles to development resulting from failure to observe civil, cultural, economic, political and social rights and the formulation of international development policies for ensuring development and eliminating obstacles thereto

29 Recognition that development cooperation and human rights are closely linked has led the United Nations and a number of its partners in the development area to move towards the concrete integration of the human rights dimension in development cooperation and assistance programmes The following elements are the cornerstones of effective, human rights-based development cooperation

(a) Better cooperation and coordination between United Nations agencies, including the Bretton Woods institutions, focusing on rights-based cooperation for development; and

(b) The need for all actors involved in development cooperation - including donors, recipient Governments, non-governmental organizations - to adopt a human rights approach to development cooperation.

30. With respect to better cooperation and coordination between United Nations agencies, the United Nations has taken initiatives in this direction which should be strengthened, such as the common country assessment/United Nations Development Assistance Framework (CCA/UNDAF) process, the proposal for a Comprehensive Development Framework and the Human Rights Strengthening (HURIST) programme operated jointly by UNCHR and UNDP.

31. In addition, United Nations agencies and the Bretton Woods institutions should get more involved in the implementation of the various mandates of the Commission on Human Rights and the Sub-Commission on the Promotion and Protection of Human Rights relating to development cooperation: foreign debt, the right to development, structural adjustment policies, extreme poverty, impunity for violations of human rights, globalization, human rights and international trade, investment and finance policy and practice, etc.

32. While the above mandates are traditionally seen as belonging to the human rights sphere, the need to move from conceptual debates towards operationalization makes it necessary for specialized and operational agencies to provide technical and expert support to the various special rapporteurs and experts of the Commission, e.g. through the identification of obstacles that have to be overcome for the integration of human rights in development cooperation, and of policies and programmes for concrete action.

33. All actors involved, including donors, recipient Governments and NGOs, should adopt a human rights approach to development cooperation. At this level also steps have been taken.

34. For example, a number of development agencies have integrated human rights as a core element of development cooperation and a framework for their activities. One development agency justifies this new policy as follows:

> Human rights is a development objective,
>
> Development cooperation is an important instrument for promoting human rights concerns,
>
> A minimum standard of human rights is a prerequisite for development and development cooperation, and
>
> Human rights are binding standards under international law.

35. However, the adoption by donors of a human rights-based approach to development is not enough. Negotiations and better understanding between donors/development agencies and recipient countries on the most sustainable and human-centred use of the resources allocated are prerequisites for building a favourable environment for the promotion and protection of human rights with a view to achieving development based on the enjoyment by individuals and peoples of their human rights.

IV. PREVENTION OF GROSS VIOLATIONS OF CIVIL AND POLITICAL RIGHTS

36. In 1947, the Institute of International Law adopted a resolution calling for the re-establishment and restoration of international law on the foundation of human rights. Since the adoption of the Universal Declaration of Human Rights in December 1948, the United Nations has been in the forefront of efforts to adopt an international human rights regime and to create a universal culture of human rights, in which violations of human rights would be monitored and, ultimately, prevented.

37. As it has evolved over the past 50 years, the United Nations human rights programme has itself developed elements of a comprehensive early-warning system, not least through the numerous monitoring activities it implements and services. Arguably, the numerous country-specific and thematic special procedures mechanisms of the Commission on Human Rights (34 by 1999) are a core element of these activities. Emergencies require prompt responses, and an effective special procedures system should be in a position to serve as a reliable early-warning mechanism and help prevent recurrent patterns of human rights violations. Within the United Nations system, there is an abundance of early-warning data, but, all too often, only limited follow-up.

38. In his 1993 report, the former Special Rapporteur on extrajudicial, summary or arbitrary executions warned that the situation in Rwanda had deteriorated to such an extent as to raise the distinct possibility that genocidal acts would take place, but the report, issued well before the onset of genocide in Rwanda in April 1994, was not paid sufficient attention to. This example shows that early warning in and of itself is not enough. And none of the existing mechanisms are of preventive value if the international community does not accept that human rights violations can be both a symptom and a cause of further escalation of conflicts, and if it does not muster the political will to act preventively.

39. In September, when addressing the Security Council on the occasion of the presentation of the Secretary-General's report on protection of civilians in armed conflict, I observed that the best protection for civilians in armed conflict is prevention. The principal elements for peace-building and reconciliation are good governance, the rule of law, respect for human rights, a strong civil society, and institutions strong enough to maintain an environment conducive to stability and peace. The special procedures of the Commission can make important contributions to the strengthening of these elements.

40. As High Commissioner, I have repeatedly stressed that an emergency response capacity in my Office is required to cope with unforeseen emergency country situations with a bearing on country-specific or thematic special procedures mandates. Accordingly, my Office is examining options for creating an emergency response task force, which would collate and analyse early-warning data and bring serious incidents and violations to the immediate attention of the appropriate United Nations human rights mechanisms. The task force should evaluate OHCHR's experience with the conflicts in the Great Lakes region, in Kosovo, Sierra Leone and East Timor, in order to determine the lessons to be learned in responding to emergencies. It should guide the process of developing procedures and a concrete programme of emergency response; in so doing, it should draw upon the experience of other organizations, including UNHCR and ICRC.

41 Since the World Conference on Human Rights, the special procedures mechanisms of the Commission have been complemented, in a number of instances, by the establishment of field presences in a number of countries, e g Angola, Burundi, Cambodia, Colombia, Georgia/Abkhazia, the countries of the former Yugoslavia and Sierra Leone, to name but a few Field presences are designed to assist the host Governments in promoting human rights, to monitor, where appropriate, human rights violations, and to help strengthen the rule of law

42 My Office is equally considering the establishment of regional and subregional presences, a principal function of which would be to monitor early-warning signals and present options to the Office for emergency response activities The New York office should assume a more active role in participating in the work of the United Nations early-warning mechanism

43 As far as the United Nations human rights treaty-based procedures are concerned, the very existence of the human rights treaty bodies, with their mechanism of review of periodic States parties' reports, provides an opportunity for continued monitoring of what States parties to the Covenants and other relevant conventions do to protect the human rights of individuals under their jurisdiction In their concluding observations on periodic reports, the treaty bodies insist that appropriate publicity be given to their observations, as well as to the State party's report, with a view to informing and educating civil society about their rights In the recent pact, the treaty bodies have developed their preventive functions and procedures they routinely request, in concluding observations, that States parties develop preventive strategies to enhance respect for civil and political rights through education, affirmative action, anti-discrimination legislation, or training of law enforcement officers

44 On a parallel track, the individual complaints procedures under the Optional Protocol to the International Covenant on Civil and Political Rights, article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination have afforded the treaty bodies concerned an opportunity to concretize the scope and meaning of the provisions of the respective treaties Domestic tribunals are beginning to be cognizant of the decisions of the treaty bodies, thereby reinforcing the quasijudicial character of the latter

45 Arguably, by creating a truly universal human rights case law, the treaty bodies help prevent human rights violations in specific situations Prevention in individual cases has been achieved through the application of interim measures of protection adopted by the Human Rights Committee under rule 86 of its rules of procedure, by the Committee against Torture under article 108 (9) of its rules, and by CERD under its "urgent action" procedure Through such interim decisions, the treaty bodies (as well as some of the Commission's special procedures mechanisms such as the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Working Group on Arbitrary Detention) have obtained temporary or permanent relief for countless potential victims in cases concerning, for example, stays of imminent execution, commutation of death sentences, or deferrals of extradition, expulsion or deportation orders

V. FUNDAMENTAL STANDARDS OF HUMANITY

46. Over the last 50 years, and especially since the end of the cold war, the decrease in the number of international armed conflicts has been offset by an increase in the number of civil wars and other situations of internal violence, which are characterized by massive and systematic violations of human rights. These include indiscriminate killings, summary and arbitrary executions, torture and cruel, inhuman or degrading treatment, arbitrary arrests, rape and abduction. Children are recruited as soldiers, girls and women are the targets of sexual abuse and gender-based violence, and innocent civilians are killed, seriously injured and permanently disabled. Situations of internal violence also provoke large movements of refugees and internally displaced persons whose circumstances are often exacerbated through the loss of vital needs for survival such as security, shelter, medical care and access to food and water. For society, the lives destroyed and the opportunities lost undermine even the best efforts to achieve security and economic progress and have a devastating impact on long-term stability and development.

47. In situations of internal violence, the lines of responsibility for the atrocities committed are often blurred. Acts of violence are perpetrated by militias, a multitude of armed groups, and armed individuals with total contempt for the most fundamental human rights and the traditional rules and principles governing warfare. In some countries, the lack of clear lines of command is compounded by the absence of Government. The safety of victims and relief workers is at stake and the work of humanitarian personnel and peacekeeping forces is often hampered, thereby, seriously undermining effective humanitarian action.

48. In the last two decades, situations of internal disturbance or strife characterized by a serious disruption of the internal order, tensions and acts of violence have become more frequent in a growing number of countries. It has been argued that, despite the existence of a highly complex network of existing human rights norms and humanitarian rules and principles, there is a need to address the lack of protection of persons in situations of internal violence because they fall outside the scope of common article 3 and Additional Protocol II to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts and because the effective implementation of human rights may be limited by derogations in exceptional circumstances. This has led to the proposal of the Commission on Human Rights to identify fundamental standards of humanity which would reflect both international human rights and humanitarian law applicable in all situations and to all parties. In this way, fundamental standards of humanity would not only ensure additional protection of persons in situations of internal violence but also contribute to preventing the gross and systematic violations of human rights which characterize internal conflicts and wars.

49. Three major proposals to strengthen the protection of persons at all times, and thereby prevent gross and systematic violations of human rights, can be highlighted. The first pertains to the full implementation of all human rights, in particular non-derogable rights. Although human rights are applicable at all times, including during situations of internal violence, some human rights treaties allow States, in exceptional circumstances, to derogate from their obligations with regard to certain human rights commitments. It is precisely during periods of internal strife, serious civil unrest or insurgency that the probability that human rights guarantees will be

suspended is highest. There is, however, a series of rights contained in the International Covenant on Civil and Political Rights which are non-derogable, including the right to life; the right not be subjected to torture or to cruel, inhuman or degrading treatment or punishment; the right not be held in slavery or servitude; the right not to be imprisoned for failure to perform a contractual obligation; the right not to be subject to retroactive penal measures; the right to recognition as a person before the law; and the right to freedom of thought, conscience and religion. The implementation of non-derogable rights at all times is crucial for the protection of human rights and the prevention of violations thereof. In this respect, the treaty bodies can and should play an important role, through appropriate recommendations in their concluding observations on States parties' reports, or requests for emergency or ad hoc reports.

50. The second proposal concerns the rapid ratification by States of the Rome Statute of the International Criminal Court in order to ensure that perpetrators who commit any of the three "core crimes" - against humanity, genocide or war crimes - are brought to justice. This will extend the rule of law, encourage national court systems to prosecute such crimes and, hopefully, deter the perpetration of the most serious violations of human rights in peacetime, situations of internal violence and during war.

51. Thirdly, gross and systematic violations of human rights in situations of internal violence may be prevented through the dissemination of information pertaining to existing human rights standards and humanitarian rules and principles as well as education and training programmes in the area of international law. These may be targeted at the police, the armed and security forces, law enforcement officials, as well as humanitarian and peacekeeping personnel and the public. Promoting human rights and humanitarian law may also be undertaken through the provision of advisory services and assistance to Governments in implementing international standards at the national level.

VI. PREVENTION OF SLAVERY

52. The wide range of violations of rights which characterize cases of slavery, servile status, bonded labour, prostitution, trafficking, forced labour, and, early and forced marriages places a heavy obligation on Governments, as well as intergovernmental institutions, to take firm and rapid action to remedy any cases which are brought to their attention. One requirement of international law is that Governments legislate to abolish any of the forms of exploitation characterized as slavery, servile status, or forced labour. Virtually all Governments have adopted such legislation, as far as slavery and institutional practices such as debt bondage and serfdom are concerned. Even though many Governments have been willing to take the step of declaring the abolition of slavery or institutions such as debt bondage, they have not followed up formal abolition in law with any practical action to secure the freedom of the victims, their rehabilitation, or the protection of potential victims.

53. Victims of slavery and slavery-like practices frequently belong to minority groups, particular racial groups or categories of people who are especially vulnerable to a wide range of discriminatory acts, including women, children, indigenous people, people of "low" caste status and migrant workers. Governments have a particular obligation to ensure that individuals from such vulnerable groups are not victims of discrimination, that their rights are recognized and protected, and that they do have access to effective remedies and rehabilitation measures.

54 The circumstances of the enslaved person are crucial to understanding and identifying what constitutes slavery Certain factors must be considered, including the degree of restriction of the individual's inherent right to freedom of movement and the degree of control over the individual's personal belongings

55 It is clear that constraints on control and ownership, often inflicted with the threat of violence and accompanied by ongoing abuse, are central to identifying the existence of slavery The migrant worker whose passport has been confiscated by his or her employer, the child sold into prostitution or the "comfort woman" forced into sexual slavery - all have the element of choice and control over their lives taken away from them and transferred to a third party, either an individual or a State

56 As intimidation, coercion, or force are frequently adduced as a reason for characterizing particular forms of exploitation as slavery, the questions of economic imperatives - a need for money or income - and social constraints - lack of health care, illiteracy - and absence of information and awareness are pertinent Protection of the civil, political, economic, social and cultural rights of people are at the core of the fight against slavery-like practices Moreover, the role of corruption and its root causes should be taken into account in the perpetuation of slavery

57 In cases of bonded labour, some bonded labourers might be able to escape their bonded status by leaving the community in which the person responsible for their bondage (their employer) has influence No physical forms of constraint or barriers prevent them leaving Economic and social considerations, however, along with a lack of awareness of what might happen to them and their families, mean that they do not leave

58 Although the list of slavery-like practices and related abuses is endless, some particular issues should be focused on and possible preventive actions identified accordingly The issues (the list is far from exhaustive) including serfdom and bonded labour, forced labour, debt bondage, migrant workers, forced marriage and the sale of wives, child labour and child servitude

A Traditional slavery

59 One example of a country where traditional slavery persists is the Sudan A preventive action could be to disarm militias which abduct people for enslavement Another is Mauritania, which has received a great deal of attention from human rights bodies

B Serfdom and bonded labour

60 Various initiatives have been taken in recent years under the title of "ethical trading" to ensure that multinationals and other companies responsible for importing products into industrialized countries are not buying products of forced labour from companies which work for them on a "subcontractual" basis Preventive measures involve inspections by independent monitors of various aspects of the production process Important literature exists in that regard which has received some publicity in relation to child labour, but the procedures concerned are probably just as important for preventing forced labour it is just that child labour is sometimes more visible than forms of forced labour such as serfdom and debt bondage

C. Forced labour

61. The term "forced labour" refers to virtually every form of slavery. It also applies specifically to forced prison labour. In the framework of the World Trade Organization (WTO), limits are set regarding the trade in goods made by prison labour. Even though various States have legislation preventing the import of such goods, control over the production and export of such goods should be reinforced.

D. Debt bondage

62. Debt bondage is often an expression of power relations, not simply a reflection of the poverty of some categories of workers. Workers who are paid less than it costs them to survive (i.e., the cost of food, lodging, essential health care, etc.) are bound to depend on others for support. In situations where support is not available workers are likely to seek credit from either moneylenders or their employer.

63. In addition to International Labour Conventions Nos. 95 and 117 which protect labourers from being forced into debt by their employers or moneylenders, and which include the vital provision of limiting the amount which an employer can pay to a worker as an advance, thus preventing the employer from bonding the worker (in many countries the law allows no more than one or at most two months' wages to be paid in advance), the three main preventive techniques could be: (i) provision of "micro credit", (ii) organizing bonded labourers so they can protect themselves and call for recognition of their basic rights, and (iii) ensuring that released bonded labourers are fully rehabilitated and do not return to bonded labour.

64. In view of the prevalence of bonded labour among the landless in rural areas, Governments may in some instances have to reform the existing land tenure systems in order to comply with their obligations under the conventions on slavery to prevent debt bondage.

65. Debt bondage is also an international phenomenon affecting many migrant workers. The marked increase in international travel for employment opportunities has increased the risk of migrant workers being forced to work to repay an agency fee of an undetermined amount, i.e., becoming victims of debt bondage.

66. In addition to legislation to abolish debt bondage and to extinguish debts which have been incurred, Governments must ensure that once bonded workers are freed they must not return to bonded status by promptly assuming another loan. The systems introduced by certain legislation provide for the State to make payments to individuals who have been identified as bonded. This practical measure helps prevent the process starting again. Governments must take steps to monitor the incidence of debt bondage, not only in countries where bonded labour has been a long-term practice, but also where it may be occurring in the context of migrant workers being forced to repay airfares or other costs. If repayment arrangements are not clear, action must be taken to protect the worker. Moreover, State should make sure that salaries are sufficient in order to prevent workers from assuming another loan.

67. Information campaigns directed at potential victims of exploitation are necessary. Some countries, such as Brazil, Ukraine and the Philippines, have put such campaigns into place. In the particular case of the Philippines, a programme has been developed for Filipinas recruited as domestic workers in other South-East Asian countries. Similarly, every woman scheduled to be married abroad is supposed to attend an "orientation course" to warn them of the risks (of "mail-order brides", etc.).

E. Migrant workers

68. Governments should enforce the call of the Working Group on Contemporary Forms of Slavery upon employers not to take possession of workers' passports or other key documents (in Brazil for example, where no passport is involved, employers keep important insurance documents which workers cannot leave without). A vital form of preventive action for all migrants appears to be to ensure that they are not left alone or isolated, i.e. that some freedom of association is respected and that consulates closely monitor their migrant nationals.

F. Forced marriage and sale of wives

69. Various existing United Nations standards which appear to be largely ignored would have a preventive effect if they were respected. These include the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages of 1962, and the Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages of 1965. In relation to the relatively recent phenomenon of girls brought up in industrialised countries being sent back to their parents' country of origin and forced to marry there, the consular authorities appear to have an important preventive role.

G. Child labour and child servitude

70. The International Programme on the Elimination of Child Labour of ILO (ILO/IPEC) is in the process of publishing a handbook on the issue which covers prevention. Preventive measures already discussed in the international arena range from providing free education to children, protecting freed children, and offering economic and social alternatives to the families of those children. The adoption in June 1999 of World Forms of Child Labour Convention (No. 182) is, of course, a milestone in this area.

VII. PREVENTION OF TRAFFICKING IN WOMEN AND CHILDREN

71. Each year, hundreds of thousands of individuals - the majority women and children - are tricked, sold, coerced or otherwise procured into situations of exploitation from which they cannot escape. These women and children are the commodities of a multi-billion-dollar transnational industry. The human rights dimensions to trafficking are evident. Trafficking and related practices such as debt bondage and forced prostitution and servitude violate the most basic human rights to which all persons are entitled, including the right to life; the right to dignity and security; the right to just and favourable conditions of work; the right to equality and non-discrimination; the right to health; the right to be recognized as a person before the law. These are rights which all individuals possess, irrespective of sex, nationality, social status, occupation or any other difference.

72. The development of effective and realistic preventive strategies against trafficking requires an understanding of its root causes. These include economic factors such as poverty, food scarcity, unemployment, indebtedness and the widening gap between rich and poor countries; social and cultural factors such as violence against women and girls, gender discrimination in the family and the community and by the State; political and legal factors such as lack of appropriate legislation, lack of political will and public sector corruption; and international factors including the growing feminization of labour migration on the one hand and increasingly restrictive immigration policies of recipient countries on the other, the rapidly expanding global sex industry and the increased power and involvement of transnational organized criminal networks. Uniting all of these different "causes" are the discrimination and inequality which serve to prevent women and girls from exercising power over their lives.

73. Trafficking is not a "typical" human rights problem in the sense that the perpetrators are overwhelmingly private individuals. However, international law is clear on the point that the State can also be held responsible for failures to act which lead to violations of recognized rights, even if these violations are committed by private persons or groups. A State that refuses to acknowledge the existence of a trafficking problem, that enacts legislation or pursues policies inimical to its resolution, or that fails to extend basic protections to victims would be legally responsible for the resulting human rights violations.

74. At the national level, preventive strategies must include strong legislation and effective law enforcement as well as protections for the trafficked persons. In addition to assisting in the identification and prosecution of traffickers, sound legal provisions will encourage national and inter-State reporting and promote uniformity in data collection and analysis. It is particularly important that the crime of trafficking is precisely defined in national law and that detailed guidance is provided as to its various punishable elements. Provision should be made for effective, proportional and dissuasive criminal penalties (including custodial penalties giving rise to extradition in the case of individuals). Certain protections should be enshrined in legislation, specifically, legal protection of the right of trafficked persons to reside temporarily in the destination country pending completion of judicial proceedings and provision for trafficked persons to be given information and legal assistance as well as appropriate social support. Legislation should prevent trafficked persons from being prosecuted for the illegality of their entry or residence or for the activities they perform as a consequence of their status as trafficked persons.

75. Effective law enforcement is critical to prevention. Despite the huge numbers involved, it is apparent that only a small fraction of traffickers are reported or apprehended, let alone prosecuted. Instances of official collusion with traffickers are also not unknown. Moreover, while law enforcement would obviously benefit from the cooperation of victims and community members, many individuals are reluctant or unable to report traffickers and serve as witnesses, often fearing or mistrusting police and other officials and unable to count on any protection from the authorities. Effective anti-trafficking law enforcement requires skill, vigilance and commitment. It is also necessary to create incentives for trafficked persons and others to come forward to report traffickers.

76. Trafficking is of course a regional and a global phenomenon which cannot be dealt with solely at the national level: a strengthened national response can often just mean that the operations of traffickers are moved elsewhere. There is increasing recognition of the important role which cross-border cooperation can play in breaking the cycle of trafficking. Such cooperation is particularly important between countries of origin and countries of destination. Governments of countries of origin and countries of destination should be encouraged to establish bilateral agreements aimed at preventing trafficking and protecting the rights of trafficked persons. Such agreements could also provide for minimum work standards, model contracts and modes of repatriation. Judicial cooperation between States in investigations and judicial processes relating to trafficking and similar offences should also be encouraged as well as assistance in the exchange of related information and the adoption of common prosecution methodologies. Consideration should be given to developing regional and subregional treaties on trafficking.

77. At the international level, a number of important preventive initiatives are in existence and others are under development. The human rights treaty bodies - particularly the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women - and the special procedures - particularly the Special Rapporteur on violence against women - are playing an increasing role in highlighting the problem of trafficking and in proposing ways of combating it. Within the United Nations itself, several agencies and programmes, including my Office, UNDP, UNICEF, ILO and the Centre for International Crime Prevention have developed anti-trafficking programmes. An important protocol, attached to the draft convention against transnational organized crime, is being negotiated under the auspices of the United Nations Commission on Crime Prevention and Criminal Justice. I consider this an important step forward and have personally urged the States involved in this drafting process to ensure that the final text of the protocol on trafficking represents a net advance for trafficked persons and their rights.

78. Good laws, strong law enforcement, and improved cooperation between States will clearly help to prevent trafficking. However, additional prevention strategies, developed on the basis of an understanding of the motivations behind trafficking, are also necessary. The underlying root causes of trafficking, outlined above, should be openly and honestly addressed. Failure to come to terms with these (admittedly more difficult) issues will prevent other preventive efforts from achieving any significant success. Governments of countries of origin have an obligation to ensure that potential migrants are properly informed about the risks of migration. They should also review national laws, policies and practices with a view to identifying and rectifying all forms of discrimination on the basis of sex. Particular attention should be paid to discrimination in relation to economic and social rights. Countries of destination should examine ways and means by which they can provide increased opportunities for legal, gainful and non-exploitative labour migration and should examine the effect on women of repressive and/or discriminatory immigration and migrant labour laws.

79. At the bilateral, regional and international levels, development cooperation should focus on fighting poverty and discrimination through the adoption of a rights-based approach and ensuring the integration of a gender perspective. Development cooperation with countries of origin should specifically address the issue of trafficking through, for example, promoting

alternative income-generating options for vulnerable women and helping Governments to develop social support programmes for families at risk. Development cooperation should also support NGOs working in trafficking, particularly local and national programmes aimed at assistance to and reintegration of victims.

VIII. PREVENTION OF VIOLATIONS THROUGH HUMAN RIGHTS EDUCATION

80. The importance of the role of human rights education - intended as "a life-long process by which people at all levels in development and in all strata of society learn respect for the dignity of others and the means and methods of ensuring that respect in all societies" (General Assembly resolution 49/184) - in the context of the realization of basic human rights cannot be ignored. Indeed, universal human rights can only be achieved through an informed and continued demand for human rights protection by the people.

81. Human rights are promoted through three dimensions of education efforts:

(a) Knowledge: provision of information about human rights and mechanisms for their protection;

(b) Values, beliefs and attitudes: development of values, beliefs and attitudes which uphold human rights. Human rights education can promote a change in negative attitudes or reinforce positive attitudes and behaviour so that the need and the importance of protecting and promoting human rights in the course of one's daily life and professional duties are deeply understood and assumed. Where there have been rapid social and economic changes, human rights education can encourage responses consistent with human rights standards;

(c) Action: encouragement to take action to defend human rights and prevent human rights abuses. Human rights education empowers individuals to defend their own rights and those of others. It develops an understanding of everybody's common responsibility to make human rights a reality in each community.

82. Accordingly, human rights education constitutes an essential contribution to the long-term prevention of human rights violations and thus to the prevention of conflicts, and represents an important investment in the achievement of a just society in which all human rights of all persons are valued and respected.

83. All members of society have a role to play in protecting and promoting human rights. Accordingly, human rights education efforts should aim at as wide an audience as possible, including:

- All levels of formal education: professional and technical training programmes as well as at pre-school and primary, secondary, university and other institutions of higher learning levels of education;

- Various groups in need of human rights education, including vulnerable groups, professional groups more likely to affect human rights advocacy and influential persons/groups in the society, in order to promote awareness of sectoral-based human rights challenges and actions to enhance human rights practices,

- The general public, with a view to increasing public and professional access to and awareness of human rights standards, mechanisms of protection and human rights conditions locally, nationally and internationally, through the mass media and informal education techniques.

84. In order to promote and focus human rights educational activities, in 1994 the General Assembly proclaimed the United Nations Decade for Human Rights Education (1995-2004) during which Governments, international organizations, national institutions, non-governmental institutions, professional associations, educational establishments, all sectors of civil society and individuals are encouraged to establish partnerships and to concentrate efforts on human rights education, training and public information.

85. The international Plan of Action for the Decade (which I have been called upon to coordinate) sets out detailed objectives for the international community: the assessment of needs and formulation of effective strategies; the building and strengthening of programmes and capacities for human rights education at the international, regional, national and local levels; the coordinated development of effective materials; the strengthening of the role and capacity of the mass media; and the global dissemination of the Universal Declaration of Human Rights.

86. Updated information on progress made in each of these components is provided in the report of the Secretary-General to the Commission on Human Rights on the implementation of the Plan of Action for the Decade (E/CN.4/2000/93). As far as my Office is concerned, the following strategy has been adopted in order to contribute to the Decade's objectives:

(a) Establishment of ad hoc partnerships, within specific projects, with other agencies in the United Nations system (in particular, UNESCO and its National Commissions, the Department of Public Information and its United Nations Information Centres, UNDP and its national offices and the International Telecommunication Union (ITU)) and with others (regional intergovernmental organizations, national institutions, human rights institutes and NGOs);

(b) Encouragement of human rights education initiatives being undertaken by other partners of the Decade, including through active participation;

(c) Strengthening of national capacities for human rights education, including through the organization of training activities and the facilitation of information-sharing at the regional level, within the Technical Cooperation Programme in the Field of Human Rights;

(d) Provision of support to grass-roots activities, through the ACT (Assisting Communities Together) Project;

(e) Development of education, information and training materials, which are disseminated to OHCHR's mailing list and through existing networks of both governmental and non-governmental organizations.

IX. COMBATING IMPUNITY AS A PREVENTIVE APPROACH

87. The adoption of the Genocide Convention encouraged the work of the United Nations International Law Commission on a draft international criminal code and court. However, during the long cold war years, this work never reached fruition. Even on the domestic front, there were few trials for genocide or crimes against humanity. In fact, aside from the International Convention on the Suppression and Punishment of the Crime of Apartheid of 1973, little development in terms of norms or implementation seemed possible until, in the new post-cold war climate, the Security Council took bold action to establish the International Criminal Tribunals for the Former Yugoslavia and the International Tribunal for Rwanda, in 1993 and 1994 respectively. Each Tribunal is authorized to prosecute individuals for genocide and crimes against humanity, among other categories of crimes under international law.

88. Moreover, they paved the way for the adoption, on 17 July 1998, of the Rome Statute of the International Criminal Court at the United Nations Diplomatic Conference. The rationale behind the permanent International Criminal Court agreed to in Rome, designed to be complementary to the domestic legal systems of States parties, is to ensure that individual perpetrators do not escape criminal justice where the State is unwilling or unable to prosecute.

89. As the international community has realized, an International Criminal Court could provide the necessary objectivity and independence to concentrate on the real issue of criminal responsibility and the need to counter impunity where serious violations are perpetrated. A universal International Criminal Court can help expose the truth about atrocities committed in a particular territory. By the fair and objective application of criminal law to individual suspects, the Court can reduce the kind of social mistrust where each side to a conflict holds the entire other side responsible, rather than the responsible individuals on both sides. Hopefully, the Court will also be able to ensure restitution or reparation as provided for in its Statute. All these advantages may help eliminate the climate of impunity and help promote national reconciliation in countries rent by deep national, ethno-cultural or religious conflict.

90. Unlike the ad hoc international tribunals, which basically apply retrospectively to crimes already committed, an effective standing International Criminal Court can deter potential perpetrators from committing crimes under international law in future. Deterrence, if backed by a credible threat of sanction, can contribute to conflict prevention.

91. The agreement reached in Rome shows one area in which the international community is moving in the right direction. However, international criminal law enforcement will not be enough. The international community must act to prevent genocide and other serious human rights violations on a much broader front.

X. CONCLUDING OBSERVATIONS

92. The quest for the prevention of gross violations of human rights and of conflicts is a defining issue of our times. As we begin the new millennium, it must be a matter of the utmost priority that we seek, at the national, regional and international levels, to develop societies fashioned in the image of the international norms on human rights. The universal implementation of human rights, economic, social and cultural as well as civil and political, is the surest preventive strategy and the most effective way of avoiding the emergence of conflict.

93. In this report, I have taken some of the issues currently featuring on the agenda of the Commission on Human Rights and have sought to show that there is considerable room for preventive strategies. I am aware of the discussions in the Security Council on prevention through early warning, peacemaking, peacekeeping and peace-building and I have had occasion to advance some thoughts on this process which I shall not repeat here. Suffice it to say that it is my firm conviction that the evolution of a human rights situation is often a barometer of conflict, and I believe it would assist the Security Council in its efforts to prevent conflicts to use this barometer. I am also aware of the development of conflict prevention and related mechanisms in regional and subregional organizations such as the Organization of African Unity, the Economic Community of West African States, the Southern African Development Community, the Association of South-East Asian States, the Organization for Security and Cooperation in Europe, the Organization of American States and others.

94. To return to the human rights arena specifically, preventive measures currently in use include: urgent appeals by special rapporteurs and thematic mechanisms; requests by treaty bodies for emergency reports; the urgent discussion of situations in bodies such as the Committee on the Elimination of Racial Discrimination; the indication of interim measures of protection under petitions procedures for which treaty bodies are responsible; the urgent dispatch of personal envoys of the Secretary-General, the High Commissioner for Human Rights, or of other organizations; the urgent dispatch of human rights and humanitarian observers or fact-finders; the establishment of international courts; and proposals for the establishment of a rapid reaction force.

95. It is my intention, as part of the process of strengthening our capacity for preventing gross violations of human rights, to devote particular attention to strengthening these areas of our activities and to seek the assistance of partners as a matter of priority for: the maintenance of a list of eminent persons who can be called upon to offer their good offices to help defuse situations where gross violations of human rights appear imminent; the development of a capacity for the rapid dispatch of human rights and humanitarian observers or fact-finders in situations of need; the dispatch of personal envoys of the High Commissioner to incipient crisis situations; the submission of urgent reports to the Bureau of the Commission on Human Rights; and the submission of urgent reports to the Secretary-General with the request that he consider making them available to members of the Security Council.

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